



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

**TRADE MARK AND TRADE NAMES.—INJUNCTION AGAINST WORDS ALREADY USED BY RIVALS—IS FRAUD NECESSARY?**—The plaintiff having been in business seventeen years under the name of “Los Angeles Van, Truck and Storage Co.” seeks an injunction against the use of the name “Los Angeles Van and Storage Co.” by a newly formed corporation, alleging that the similarity in the names is calculated to cause and will cause the public to deal with the defendant believing it to be the plaintiff. *Held*, that the injunction will not be granted. *Dunston v. Los Angeles Van and Storage Co.*, 131 Pac. 115 (Cal.).

The court in the principal case argues that since the plaintiff’s name is too descriptive for registration, he must prove intentional fraud. In considering the case from this point of view, however, it can be argued that since deception of the public and passing off of the defendant’s goods as the plaintiff’s are the natural and probable consequences of the defendant’s choice of name, he should be responsible. *Forster Manuf. Co. v. Cutter-Tower Co.*, 211 Mass. 219, 97 N. E. 74. It is not, however, necessary to follow this course of reasoning. Business reputation and good will have long been recognized by equity as property rights. See 26 HARV. L. REV. 442. Once it is proved that the public is mistaking the defendant’s wares for the plaintiff’s, this property right of the plaintiff’s is being trespassed on, and equity should give relief. *North Cheshire & Manchester Brewery Co. v. Manchester Brewery Co.*, [1899] A. C. 83. The court also argues that defendant’s advertisements are literally true, since defendant is a Los Angeles van and truck company, and that equity will not enjoin telling the truth. Historically the fact that defendant was telling an untruth in the sense of misdescribing himself or his business aided in the gradual extension of equity jurisdiction. Now, however, this jurisdiction has been definitely extended to cover business reputation, so the truth or falsity of defendant’s advertisements taken by themselves is not material. The only fraud that is essential is the fraud on the plaintiff in leading the public to mistake the defendant’s wares for those of the plaintiff.

**TRADE MARKS AND TRADE NAMES—NATURE OF RIGHT.**—The plaintiff circulated throughout the city of St. Louis a blind advertisement consisting of nothing but the word “Stopurkicken,” intending to follow this with an advertisement of his laundry. The defendant, however, anticipated him by appropriating the scheme to the advertisement of its envelopes. The plaintiff now sues for damages. *Held*, that he cannot recover. *Westminster Laundry Co. v. Hesse Envelope Co.*, 156 S. W. 767 (Mo., St. Louis Ct. App.).

The principal case is clearly right in so far as it refuses to protect the phrase “Stopurkicken” as a trade name, because the right in a trade symbol or name cannot exist in the abstract, but arises solely from its relation to the business for which it stands. *Weener v. Brayton*, 152 Mass. 101, 25 N. E. 46; *Cigar-Makers’ Protective Union v. Conhaim*, 40 Minn. 243, 41 N. W. 943. Nor can the plaintiff claim technically an injury to his good-will, because good-will is usually interpreted to mean the partiality of the public for a particular commodity or individual, and here the advertiser was unknown. See 16 HARV. L. REV. 135. But the mere lack of a familiar classification does not excuse the court for denying recovery. True, the interest to be safeguarded is intangible, but so is good-will. The plaintiff here has at heavy cost created a thing of undoubted value in the business world, and his loss is plainly demonstrable, much more so for example than damage to a man’s reputation. It is novel situations like these that challenge the power of our law to expand, and the failure to do this in the principal case has permitted a defendant to escape liability though he has without justification inflicted serious practical loss.